

BUSINESS MEETING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Business Meeting)
)
_____)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, JUNE 16, 2004
10:06 A.M.

Reported by:
Alan Meade
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COMMISSIONERS PRESENT

Arthur Rosenfeld, Acting Chairman

James D. Boyd

John L. Geesman

Jackalyne Pfannenstiel

STAFF and CONSULTANTS PRESENT

Robert Therkelsen, Executive Director

William Chamberlain, Chief Counsel

Susan Gefter

Paul Kramer

Nancy Tronaas

Jennifer Tachera

Elaine Sison-Lebrilla

Ram Verma

Donald B. Kazama

Tony Wong

Liz Flores

Mike Trujillo

Marwan Masri

Via Teleconference

Brewster Birdsall
Aspen Environmental Group

PUBLIC ADVISER

Margret Kim

ALSO PRESENT

Scott Galati, Attorney
Grattan and Galati
representing Tesla Power Project

Robert Sarvey

Susan Sarvey
Clean Air for Citizens and Legal Equality

via teleconference

Michael Boyd
Californians for Renewable Energy

Barry Luboviski, Secretary-Treasurer
Building and Construction Trades Council of
Alameda County, AFL/CIO

Don Campbell, Executive Director
National Electrical Contractors Association,
Northern California Chapter

Obray VanBuren, Representative
Pipetrades Association
Plumbers and Steamfitters Local Union 342

Victor Uno, Business Manager
International Brotherhood of Electrical Workers
Local Union No. 595

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P R O C E E D I N G S

10:06 a.m.

ACTING CHAIRMAN ROSENFELD: Good morning. I'm Commissioner Rosenfeld, for a change. Chairman Keese is in Washington on official business. Commissioner Geesman, would you lead us in the Pledge.

(Whereupon the Pledge of Allegiance was recited in unison.)

ACTING CHAIRMAN ROSENFELD: We have one item on the consent calendar. Do I hear a motion?

COMMISSIONER GEESMAN: So moved, Mr. Chairman.

ACTING CHAIRMAN ROSENFELD: Would somebody like to second the consent motion.

COMMISSIONER BOYD: Second the motion.

ACTING CHAIRMAN ROSENFELD: All in favor of the consent motion say aye.

(Ayes.)

ACTING CHAIRMAN ROSENFELD: The ayes have it, four to one -- four to zero.

(Laughter.)

ACTING CHAIRMAN ROSENFELD: Tesla Power Plant project. Possible adoption of the Revised Presiding Member's Proposed Decision recommending

1 certification of 1120 megawatt Tesla Power Plant
2 sponsored by Florida Power and Light, to be
3 located in eastern Alameda County near the City of
4 Tracy. The contact is Susan Gefter, and, Susan,
5 are you ready to enlighten us?

6 MS. GEFTER: Yes. The Commission is
7 asked to consider the Committee's Revised
8 Presiding Member's Proposed Decision on the Tesla
9 Power project. And this is a project that is
10 located in eastern Alameda County near the border
11 with San Joaquin County.

12 We have determined that the project
13 complies with all federal, state standards and
14 laws. And we have several of the parties here
15 today. The applicant is here represented by Scott
16 Galati; staff is here represented by Paul Kramer;
17 and intervenor Robert Sarvey is also here.

18 And I'll let the parties address the
19 Commission at this point.

20 ACTING CHAIRMAN ROSENFELD: All right.
21 I'm going to defer on this pretty much to Mr.
22 Geesman, since he's the Chair of the Committee.
23 He suggests we talk to Mr. Galati, or hear from
24 Mr. Galati.

25 MR. GALATI: Scott Galati on behalf of

1 FPL Energy, representing the Tesla Power Project.
2 We have reviewed the Revised Presiding Member's
3 Proposed Decision. We made comments, one comment
4 on that Revised PMPD. And we have seen the errata
5 which addresses our comment.

6 We have looked at the errata and we
7 agree with all those comments. And we support the
8 Revised PMPD with the errata be adopted today.

9 Thank you.

10 COMMISSIONER GEESMAN: And let's hear,
11 then, from the staff next. Mr. Kramer.

12 MR. KRAMER: Thank you. We had one
13 request with regard to the errata, and that's to
14 remove -- there's a table that's proposed to be
15 inserted at the end of the cultural section. And
16 that was meant, in our comments, to be
17 illustrative of the various timeframes that the
18 conditions would require. But there's at least
19 the possibility that that table may conflict in
20 some way on some detail with the actual specific
21 requirements that are in the written conditions.
22 And we'd rather not create that situation. So
23 we'd rather just remove that from the decision.
24 It doesn't add anything; it was merely meant as a
25 summary.

1 COMMISSIONER GEESMAN: Ms. Gefter, is
2 that satisfactory?

3 MS. GEFTER: That would be fine. I
4 understand from staff that that table was merely
5 meant to be illustrative to the Committee and
6 assist us in understanding the timing on the
7 conditions. But, as Mr. Kramer pointed out, the
8 conditions speak for themselves, and --

9 COMMISSIONER GEESMAN: Okay.

10 MS. GEFTER: -- the parties understand
11 the timing on these conditions.

12 COMMISSIONER GEESMAN: Okay, so we'll
13 delete the table from the errata. Any other
14 comments, Mr. Kramer?

15 MR. KRAMER: I gather that Mr. Sarvey's
16 going to have quite a few, and I think it would be
17 more efficient if I waited to hear from him, and
18 then reply.

19 COMMISSIONER GEESMAN: That would be
20 fine. Mr. Sarvey.

21 MR. SARVEY: I believe first we have an
22 outstanding motion to deal with, and that's where
23 I would like to begin if that's --

24 COMMISSIONER GEESMAN: Okay. Ms.
25 Gefter, do you want to -- we have several motions

1 to deal with. Do you want to tee them up for us?

2 MS. GEFTER: Okay. I think that the
3 first motion that Mr. Sarvey's referring to is his
4 motion to delay certification, which he included
5 in his June 7th comments on the Revised PMPD.

6 And in his motion to delay certification
7 Mr. Sarvey asked that the Commission defer to
8 CARB, California Air Resources Board, to analyze
9 the project's transport effects on air quality in
10 the San Joaquin Valley.

11 Mr. Sarvey argues that staff did not do
12 a complete job, and he questions staff's
13 cumulative impacts analysis in the case.

14 So, Mr. Sarvey, do you want to address
15 that particular motion first?

16 MR. SARVEY: Yes.

17 MS. GEFTER: Okay.

18 MR. SARVEY: First of all, I gave you a
19 handout; it's a map that most of you are familiar
20 with. And on the bottom it says the total
21 unmitigated emissions in San Joaquin Valley Air
22 Pollution Control District from East Altamont
23 Energy Center and Tesla, and this is from a
24 cumulative perspective.

25 Those total unmitigated emissions at the

1 bottom of 394 tons of NOx; 113 tons of VOCs; and
2 284 tons of PM10 are not mitigated in AQ-7 or any
3 of the agreements of the San Joaquin Valley Air
4 Pollution Control District.

5 Now, in order for this project to be
6 ultimately completely mitigated there has to be a
7 transport factor established. And there's a
8 conflict with the transport factor in relation to
9 how East Altamont viewed it and how Tesla viewed
10 it.

11 So, essentially one decision is right,
12 one decision is wrong. So one project is fully
13 mitigated, one project is not, or maybe both are
14 not.

15 Now, the experts on transport and who
16 are legally required to respond to transport
17 issues is the Air Resources Board. So in this
18 case I feel it's appropriate that the Air
19 Resources Board be consulted on this because the
20 positions are so opposite, the two decisions.

21 One has a 70 percent factor that they
22 allow credit for from Pittsburg and the rest of
23 the emission reduction credits are 23 percent.
24 The other decision totally renounces the 70
25 percent factor, and that's the East Altamont

1 decision. And in that decision, the guy who
2 developed it, Mr. Tuan Ngo, he renounced that 70
3 percent factor, as well.

4 So I think -- I've never heard of a 70
5 percent transport factor from Pittsburgh in any
6 other case or any -- and I realize this is a
7 unique case, but I think this needs to be
8 resolved, otherwise we have one project or the
9 other that is not mitigated. So I would like to
10 see CARB consulted on this. That's the basis of
11 my motion.

12 And I've handed you a sheet there that
13 pretty clearly summarizes the two stances that the
14 cases have taken. And that's pretty much the
15 extent of it.

16 COMMISSIONER GEESMAN: Okay. Mr.
17 Kramer, does the staff have a response?

18 MR. KRAMER: Yes, we don't understand
19 Mr. Ngo to have renounced that he first
20 established the 70 percent factor by reviewing the
21 various air quality data. Mr. Birdsall, who was
22 the expert, staff's expert, in this case reviewed
23 that information and other information; and he
24 believes that the 70 percent factor is correct.

25 And the Committee in this case

1 considered all that evidence. Mr. Sarvey had
2 ample opportunity to cross-examine the witnesses;
3 to argue it to the Committee, his position.

4 In essence he's just trying to continue
5 that argument. At some point the Commission has
6 to make a decision based on the evidence in the
7 record in this case.

8 It's not clear to me from reading the
9 East Altamont decision exactly what factor they
10 adopted for the Pittsburgh credits. But I don't
11 understand them to have said they have no value.
12 And I suspect if we did the math it might be very
13 similar. I can't tell you one way or another.

14 In that particular case the parties came
15 to the Commission with a package. And the East
16 Altamont Committee apparently decided, and they
17 said in their decision, that they mitigation
18 package that was agreed upon by the applicant in
19 that case, the Air District, adequately mitigated
20 environmental impacts.

21 We're not talking here about air quality
22 rules, and what the requirements of the Bay Area
23 Air District are under their air quality rules;
24 we're talking about additional mitigation that
25 staff has recommended to make sure that the

1 environmental impacts in a CEQA analysis, that
2 they have been adequately mitigated.

3 Staff continues to believe that the 70
4 percent factor is appropriate. We've noted in our
5 response to Mr. Sarvey's comments that we filed
6 yesterday that if this were in the San Joaquin
7 District, they would allow use of credits from the
8 Pittsburg/Antioch area, and they would apply a
9 two-thirds, or 66.7 percent factor, which is
10 basically similar to the factor that we're
11 proposing. There's no substantive difference.

12 And this project, of course, is not in
13 the San Joaquin District. It's permitted by the
14 Bay Area. And, again, staff is trying to add
15 additional mitigation.

16 The Air Resources Board has been -- at
17 least they've had available to them, I don't know
18 the depth to which they've analyzed this issue,
19 but they've certainly been monitoring these
20 proceedings and they have not commented that they
21 perceive any particular problem or inconsistency
22 between those decisions.

23 But the bottomline is the record in this
24 case is what must form the decision of the
25 Committee. And now, today, the Commission. And

1 what happened in East Altamont, you just can't
2 bring in a sound-bite from that case and argue
3 that that somehow is to influence the results in
4 this case.

5 COMMISSIONER GEESMAN: Mr. Galati, do
6 you have anything to add?

7 MR. GALATI: Yes, I would just like to
8 briefly add in the East Altamont case the
9 Commission relied heavily on what the San Joaquin
10 Valley District had decided on the transport
11 factor.

12 I'd just like to point out that this
13 applicant came in with that proposal that was with
14 the San Joaquin Valley Air Pollution Control
15 District where they had agreed on a particular
16 transport factor.

17 Staff found that additional mitigation
18 was necessary. So the Revised PMPD would be
19 adopting more mitigation than was required for
20 East Altamont using the same analysis. And this
21 applicant has agreed to that.

22 I would also point out that while CARB
23 does provide guidance, it is ultimately, we
24 believe, the District's call and the Energy
25 Commission's call as to whether the impacts are

1 fully mitigated. CARB guidance was used; the
2 District consulted with CARB; came up with a
3 transport factor that quite frankly was less than
4 what's happening here.

5 The end result is there's more
6 mitigation due to the Energy Commission's
7 involvement.

8 COMMISSIONER GEESMAN: Do we have anyone
9 on the phone that wants to address us on Mr.
10 Sarvey's motion?

11 MR. BOYD: Mike Boyd.

12 MS. GEFTER: Mr. Boyd, who represent
13 CARE, which is another intervenor in this case,
14 would like to address that issue.

15 COMMISSIONER GEESMAN: Okay, Mr. Boyd.

16 MR. BOYD: Hello?

17 COMMISSIONER GEESMAN: Yes, go ahead,
18 Mike.

19 MR. BOYD: Hi. Well, I basically
20 support what Bob's saying. I support his motion.
21 And I just wanted to let you guys know that I
22 started a new job so I can't really stay on the
23 phone for too long.

24 But basically, me and Bob have talked
25 before the meeting today, and pretty much with

1 what he's doing we support it. And I'll just
2 leave it at that. And whatever the outcome is in
3 your deliberations, that'll be (inaudible). Thank
4 you.

5 COMMISSIONER GEESMAN: Okay, thank you.

6 MR. LUBOVISKI: Barry Luboviski with the
7 Building Trades Council. I'm on and wish to
8 speak.

9 COMMISSIONER GEESMAN: Yes, go ahead.

10 MR. LUBOVISKI: I unfortunately was not
11 able to get on to hear the motion, as I had
12 difficulty getting through and getting recognized
13 with the number that I was given, but I've
14 resolved that obviously, I'm on.

15 Not knowing the motion I'd like to speak
16 and, I think, make my comments clear regarding the
17 Tesla project.

18 MS. GEFTER: Just a moment --

19 COMMISSIONER GEESMAN: Let me --

20 MS. GEFTER: Mr. Luboviski is a member
21 of the public and not a party to this --

22 COMMISSIONER GEESMAN: Okay. We'll take
23 your comment a little bit later. We want to deal
24 with the motions first.

25 MR. LUBOVISKI: I understand. If you

1 could tell me one thing for procedure?

2 COMMISSIONER GEESMAN: Certainly.

3 MR. LUBOVISKI: I'm in somebody's office
4 at a meeting. If it looks like it's going to be a
5 half hour or more, rather than sitting on the
6 phone, I would appreciate being able to call back.

7 COMMISSIONER GEESMAN: I don't think it
8 will be that long.

9 MR. LUBOVISKI: Then I'll wait. And,
10 thank you, sir.

11 MS. GEFTER: Okay. And Brewster
12 Birdsall, who was staff on this case, is on the
13 phone if anyone has any questions for him. He was
14 the staff person who did the analysis.

15 ACTING CHAIRMAN ROSENFELD: Can't hear
16 you, Susan. You're going to have to talk louder.

17 MS. GEFTER: I'm sorry. I just said
18 that Brewster Birdsall, who was the staff analyst
19 on this case, is on the phone if any member of the
20 Commission has questions for him.

21 COMMISSIONER GEESMAN: The motion in
22 front of us is one of whether to delay the
23 certification in order to consult with the ARB.
24 Do any of my colleagues have a desire to speak
25 with Mr. Birdsall before we vote on the motion to

1 delay certification?

2 COMMISSIONER PFANNENSTIEL: What I
3 heard, I just want to make sure I'm correct, was
4 that the ARB was consulted in this process. And I
5 guess by the Air Quality Management Board. Is
6 that correct? I mean, that their information did
7 come in through that process?

8 MR. GALATI: That's correct. The San
9 Joaquin District and the applicant had met with
10 ARB; and ARB was sent a copy of the air quality
11 mitigation agreement, which subsequently the
12 mitigation was increased.

13 COMMISSIONER PFANNENSTIEL: Yes, thank
14 you.

15 COMMISSIONER BOYD: Mr. Sarvey seems to
16 have a difference of opinion.

17 MR. SARVEY: Well, I met with the ARB
18 last Tuesday. They've never even heard of the 70
19 percent transport factor, and it kind of made
20 their jaw drop when they heard about it. And I
21 was hoping that they would be here to support this
22 motion. But, obviously, they have not been.

23 But there was another issue, as well.
24 The Commission filed a response to my motion to
25 delay certification, and also supplied comments on

1 a revised PMPD.

2 MS. GEFTER: Okay, Mr. Sarvey, that's a
3 separate issue.

4 MR. SARVEY: Okay, I'm sorry.

5 COMMISSIONER GEESMAN: Yeah, we're
6 focused on --

7 MR. SARVEY: I'm sorry.

8 COMMISSIONER GEESMAN: -- your motion
9 right now, Bob.

10 I would recommend that we vote to deny
11 the motion to delay certification. Is there a
12 motion to that effect?

13 COMMISSIONER PFANNENSTIEL: I so move.

14 COMMISSIONER GEESMAN: Is there a
15 second?

16 COMMISSIONER BOYD: I'll second it. I'd
17 like to just comment that, as Mr. Sarvey knows, I
18 know a lot about air pollution and the business.
19 And I'm deferring heavily to the Committee here.

20 I'm disturbed by the "yes, we did know/
21 we didn't" with regard to whether the ARB was a
22 player here. But I know the process quite well.
23 And I know the local districts are in charge of
24 the situation. And that they operate under
25 guidance from the ARB.

1 And I would say perhaps Mr. Sarvey needs
2 to take the issue of what guides the district in
3 question to the ARB and appeal it there. But in
4 this case I think we have to defer to the record
5 that's been established. And that's why I'll
6 second the motion.

7 MS. GEFTER: I'll also reiterate to the
8 Commission what staff indicated again, which is
9 that this ratio of the 70 percent transport factor
10 goes to staff's CEQA analysis and CEQA mitigation
11 plan, which is in addition to the FDOC, which was
12 issued by the Bay Area Air District, and in
13 consultation with the San Joaquin Valley Air
14 District, in terms of mitigating in that area for
15 any transport of air pollutants from the project
16 into San Joaquin Valley.

17 COMMISSIONER GEESMAN: Is there any
18 further discussion on the motion?

19 MS. KIM: I have a brief comment. I
20 believe that a couple of seconds ago Mr. Sarvey
21 wanted to make a comment on the procedural aspect
22 of the motion. To the extent that you're going to
23 be ruling on the substantive part, I think you may
24 want to hear what he has to say.

25 He feels basically that there was some

1 sort of a defect in the reply that was filed by
2 staff. So, perhaps you want to elaborate on that.

3 MR. SARVEY: Well, staff filed the
4 Commission Staff response to Intervenor Sarvey's
5 motion to delay certification and comments on
6 Revised PMPD.

7 And I received this notification of this
8 at 3:00 yesterday. Now, written comments for even
9 the public were closed on Monday. Now, I don't
10 object to the portion of this response to the
11 motion, but apparently they have chosen to comment
12 on all of my comments on the Revised PMPD, biology
13 and so on. And I feel that's inappropriate. I
14 feel that should be stricken from the record
15 because essentially everybody had an opportunity
16 to comment on the PMPD. There was no opportunity
17 to file reply briefs on comments to the RPMPD is
18 something that I've never seen.

19 So, I mean I don't even know if the
20 Committee's had an opportunity to see this. But
21 this is inappropriate.

22 COMMISSIONER GEESMAN: Well, I can say
23 it was handed to me on my way down the stairs to
24 this meeting. I've not had an opportunity to read
25 it. If the staff chooses to, and can verbally

1 summarize their comments, when we get to the
2 substantive portion.

3 But I don't think this particular
4 discussion relates to our decision on your motion
5 to delay. So if we can postpone the substantive
6 discussion for a couple minutes, I'd like to
7 dispense with the motion to delay first.

8 MR. SARVEY: Well, just that there was a
9 lot of inaccurate statements in this, and --

10 COMMISSIONER GEESMAN: And I'll give you
11 the opportunity to point those out in a couple of
12 minutes.

13 MR. SARVEY: Okay, thank you.

14 COMMISSIONER GEESMAN: Is there any
15 further discussion on the motion to delay? It's
16 been moved and seconded that we deny Mr. Sarvey's
17 motion to delay.

18 All those in favor, please say aye.

19 (Ayes.)

20 COMMISSIONER GEESMAN: Opposed? Motion
21 is denied four to zero.

22 Now, I believe that's all the motions
23 that you had, Mr. Sarvey. So we're prepared to
24 get into the substantive aspect of your comments.

25 MR. SARVEY: Basically, I received this

1 yesterday, as well. And I have not had an
2 opportunity to thoroughly review it, digest it.
3 And I --

4 COMMISSIONER GEESMAN: Let me suggest
5 that you not feel the need to address it unless
6 the staff chooses to raise their comments
7 verbally. Just go over your substantive points;
8 don't feel a need to rebut the staff until the
9 staff has made points that you object to.

10 MR. SARVEY: Well, I don't really want
11 to rebut this. I want this stricken from the
12 record as an inappropriate filing. Obviously you
13 don't file a reply brief to comments on the RPMPD,
14 which is essentially what five pages of this
15 filing is. I would like to have it stricken from
16 the record. I don't think it belongs on the
17 administrative or the evidentiary record.

18 And if you read it, for instance it's
19 full of information that's untrue. It says right
20 here that the most recently licensed major power
21 plant, Inland Empire, would achieve 4 ppm CO.
22 It's stating that, you know, that's the standard.
23 Well, in fact, we know Magnolia was just permitted
24 by yourself and Mr. Birdsall was the air quality
25 expert for 2 ppm CO.

1 So, I mean we can't have things on the
2 record that there's no opportunity to respond to,
3 that are inaccurate. And I could go on on a
4 couple other points, but I don't think that the
5 business meeting is the appropriate place to do
6 that.

7 And that's basically why I'm objecting
8 to this information.

9 COMMISSIONER GEESMAN: Ms. Gefter, can
10 you help us out here?

11 MS. GEFTER: As Commissioner Geesman
12 mentioned earlier, staff would have the
13 opportunity to present oral comments today to any
14 issues raised by Mr. Sarvey.

15 So, at this point, whether or not this
16 document is stricken from the record would be
17 irrelevant. The Commission could, you know, grant
18 Mr. Sarvey's request and staff would still have
19 the opportunity to respond to Mr. Sarvey's
20 comments on the PMPD. I don't see that that would
21 create a problem in the record or in the
22 presentation to the Commission today.

23 The document that we're discussing is
24 entitled, Commission Staff's Response to
25 Intervenor Sarvey's Motion to Delay Certification

1 and Comments on Revised PMPD. It was docketed
2 June 15th, yesterday.

3 A page and a half of that is a response
4 to Mr. Sarvey's motion to delay. And the rest of
5 the document deals with staff's response to
6 comments by Mr. Sarvey on the PMPD. So, if the
7 Commission decides to agree with Mr. Sarvey you
8 could strike the last five pages of the document.

9 COMMISSIONER GEESMAN: Let's go to your
10 substantive points first, Mr. Sarvey.

11 MR. SARVEY: Related to this document?

12 COMMISSIONER GEESMAN: Related to the
13 Revised PMPD.

14 MR. SARVEY: Oh, you want to --

15 COMMISSIONER GEESMAN: I'm trying to
16 focus on the substance here and --

17 MR. SARVEY: Okay.

18 COMMISSIONER GEESMAN: -- get away from
19 the cops-and-robbers stuff.

20 MR. SARVEY: Okay, no problem. Sorry.
21 Well, Commissioners, as you know, the Tesla
22 project is being sited within five miles of the
23 1100 megawatt East Altamont Energy Center. And
24 when the wind blows in the San Joaquin County,
25 which is 75 percent of the time, as the record

1 reflects, these two projects will emit one ton per
2 day of directly emitted PM2.5 into our county.

3 Well, currently, according to the Air
4 Resources Board database, San Joaquin County has
5 14 tons a day of directly emitted PM2.5. These
6 two projects will increase direct PM2.5 emissions
7 into San Joaquin County by 8 percent.

8 The mitigation for the 149 tons per year
9 of PM2.5 from the East Altamont Energy Center is
10 an SO2 credit that was created in 1989 in
11 Pittsburg in an entirely different air basin, the
12 Bay Area Air Quality Management District, which I
13 referred to earlier.

14 The mitigation for Tesla is 196 tons of
15 PM2.5 is an ERC from 1984 in Pittsburg. Well,
16 saying that a PM2.5 emission reduction for
17 Pittsburg created in 1984 is CEQA mitigation in
18 San Joaquin County is like telling an asthmatic
19 sitting in this room that it's okay to smoke
20 because outside I quit smoking in 1984. And
21 that's the parallel I draw to that.

22 I do not believe that pre-1990 ERCs are
23 CEQA mitigation. They are pieces of paper that
24 are used to establish attainment in Air Districts.
25 In this instance I have two pre-1990 ERCs

1 offsetting PM2.5 into the county.

2 There is other mitigation involved here.
3 One is a road-paving credit which the decision
4 renounces. The decision says the road-paving
5 credit is essentially worthless except for the
6 PM10 that's coming out of the cooling tower.

7 And then there's 48 tons of yet-to-be-
8 determined PM2.5 reductions which do not even have
9 to be achieved to allow this plant to run. This
10 plant could run without achieving that 48 tons.

11 So what is the health impact of an 8
12 percent increase in PM2.5 that will occur in San
13 Joaquin County for these two projects? We don't
14 know.

15 This impact is compounded by the 20,000
16 homes and two business parks that the City has
17 permitted within close proximity of the Tesla
18 Power Plant. I provided you a page here that is
19 the most recent picture of development within six
20 miles of this project.

21 And as you'll see in the bottom there's
22 a total of 3000 tons of NOx, 2300 tons per year of
23 VOCs, and 312 tons of PM10. They're not even
24 included in the cumulative impact report. The
25 reason they're not, staff claims that this is

1 background. I thoroughly disagree. That's an
2 enormous amount of development and an enormous
3 amount of pollution that is documented and
4 certified EIRs that are exhibits in this project.

5 So I think that the Commission closely
6 has to look at this. This should be included in
7 the cumulative study.

8 So, over the last three years three
9 projects now, the Tracy Peaker project I
10 participated in; the East Altamont Energy Center;
11 and now the Tesla project. I've asked for a
12 complete air analysis and health risk assessment
13 of these projects and the three projects together.
14 To date it hasn't been done.

15 I'm not the only one that's asked for
16 that. Staff, in the East Altamont Energy Center,
17 asked for a cumulative air analysis that included
18 all the power projects and already permitted
19 residential building projects. My Assemblywoman
20 Barbara Matthews sent several letters to the
21 Energy Commission requesting this analysis.

22 Today I'm going to ask one more time.
23 Before you permit this project make sure that
24 these projects will not further compromise the
25 health of my community which already suffers from

1 an inhalation cancer risk three times the state
2 average and a 14 percent asthma rate.

3 I'd ask you not to rely on a
4 hypothetical analysis that establishes a new
5 unsubstantiated 70 percent effectiveness factor
6 for ERCs from Pittsburgh. If that analysis were
7 true all power plants in Pittsburgh should be
8 providing 70 percent of their offsets in San
9 Joaquin County.

10 That analysis, the 70 percent analysis,
11 was clearly rejected in the East Altamont Energy
12 Center, and the PMPD for the East Altamont Energy
13 Center says, staff adopted a 70 percent factor
14 from emissions from the Pittsburgh area. This was
15 adopted because staff felt applying the 27 percent
16 transport factor would be too punitive. Our
17 analysis of the transport factor is equally
18 applicable here. We find no logical basis for a
19 70 percent factor. And, again, do not think the
20 methodology is established well enough to override
21 the Bay Area decisions. And that's from the final
22 decision on the East Altamont Energy Center, page
23 144.

24 Seeing that it's been clearly rejected
25 by the East Altamont Energy Center Committee and

1 Mr. Ngo, you should also reject it here. I
2 believe you should look closely at this analysis
3 that would classify a majority of emissions from
4 future permitted land use projects as background
5 emissions, and ignore certified EIRs which predict
6 thousands of tons of criteria air pollutants a
7 year, within six miles of this project.

8 If you accept that premise there's no
9 reason to supply any emission offsets from any
10 project, nor do any analysis of any kind. All we
11 have to say is emissions are decreasing; we don't
12 have to worry about them. We don't have to
13 include them in a cumulative assessment. I think
14 that's a false way to look at it.

15 These mitigation schemes must rely on an
16 evaluation that makes sense. The Air Resources
17 Board has never established a 70 percent transport
18 factor; and the Energy Commission lacks the
19 expertise and the jurisdiction to do so.

20 In this project I've argued that ammonia
21 slip and CO emissions should be limited to 2 ppm.
22 And I provided evidence from the Air Resources
23 Board and operating permits from Massachusetts as
24 exhibits, which are concrete evidence that these
25 levels are permitted and achieved in practice. I

1 provided evidence of predicted CO violations in
2 the project area. Staff's witness claims he's
3 unfamiliar with these projects and these CO and
4 ammonia slip levels have not been permitted in
5 California.

6 The RPMPD implies that since this 2 ppm
7 ammonia slip has not been permitted in California
8 that we need not consider it. Well, recently the
9 Magnolia Power Plant, I believe it was January
10 7th, established BACT for CO in the State of
11 California as 2 ppm, with Mr. Birdsall as the air
12 quality expert and Commissioner Geesman as the
13 Presiding Member and Sue Gefter as the Hearing
14 Officer.

15 So, if you do nothing else on this
16 project, if you do not deny it, at least require
17 they use the lowest emission rates possible.

18 Thank you.

19 COMMISSIONER GEESMAN: Would the staff
20 like to respond to any of Mr. Sarvey's substantive
21 points?

22 MR. KRAMER: Yes. First of all, could
23 we open Mr. Birdsall's mike? Okay, Brewster, are
24 you there?

25 MR. BIRDSALL: Yes, I am.

1 MR. KRAMER: Okay, could you explain the
2 difference in the CO requirements between Magnolia
3 and this project, and the reason for that?

4 MR. BIRDSALL: Well, Magnolia is located
5 in the South Coast Air Quality Management
6 District, which is a nonattainment area for carbon
7 monoxide. This District, which has --
8 jurisdiction to determine what is the lowest
9 achievable emission rate for that pollutant, the
10 carbon monoxide, has decided, as Sarvey points
11 out, that a 2 ppm -- well, let me back up.

12 I don't have the Magnolia case in front
13 of me, so I can't say exactly what's in the
14 Magnolia case. But, the setting in the South
15 Coast Air Quality Management District dictates a
16 closer look at carbon monoxide emissions because
17 it is an existing nonattainment area.

18 MR. KRAMER: Okay, the 2 ppm requirement
19 came from staff or from the Air District?

20 MR. BIRDSALL: Well, that would be an
21 Air District requirement.

22 MR. KRAMER: Okay, and in this case what
23 did -- in the Tesla case what did the Air District
24 recommend?

25 MR. BIRDSALL: The Air District in the

1 Tesla case recommended the 4 ppm that is going
2 forward in the Revised PMPD.

3 MR. KRAMER: Okay, and staff modeled the
4 carbon monoxide impacts, correct?

5 MR. BIRDSALL: Yes, that's correct.

6 MR. KRAMER: And what emission rate did
7 you use in that model?

8 MR. BIRDSALL: Well, the modeling
9 analysis for carbon monoxide was actually based on
10 the applicant's original proposal of 6 ppm. And
11 that modeling analysis demonstrated that the
12 project would not cause a violation of carbon
13 monoxide standards. And that because the existing
14 conditions in the San Joaquin Valley and the Bay
15 Area Air District are both well within the ambient
16 air quality standards for carbon monoxide, that no
17 mitigation beyond what the Air District requires
18 as best available control technology would be
19 appropriate.

20 And as I mentioned a minute ago, the Bay
21 Area Air Quality Management District has
22 determined that the 4 ppm limit is the lowest
23 achievable emission rate.

24 And this is a decision that's not made
25 in a vacuum. I also would like to draw Mr.

1 Sarvey's attention to another recent case in the
2 South Coast that happened sort of in the same
3 timeframe as Magnolia, which is the Inland Empire
4 case, which has been approved in December of 2003
5 by the South Coast Air Quality Management
6 District, with the lowest achievable emission rate
7 of 4 ppm for carbon monoxide.

8 So, in that case the South Coast Air
9 District has decided for these large frame,
10 combined cycle power plants that the 4 ppm does
11 represent the lowest achievable emission rate.

12 MR. KRAMER: Okay, so the Inland Empire
13 was a different power plant design than Magnolia?
14 Is that what you're saying?

15 MR. BIRDSALL: Well, actually I'm not
16 certain. Inland Empire is a very similar design
17 to Tesla Power Plant, though, because it does
18 include a duct firing system and the heat recovery
19 steam generators that are common in the combined
20 cycle system.

21 MR. KRAMER: Okay, both of those are
22 much larger than the Magnolia Plant, correct?

23 MR. BIRDSALL: Well, that's true. The
24 total output of Inland Empire is roughly on the
25 order of 500 megawatts. And I know that Magnolia

1 is much smaller.

2 MR. KRAMER: Okay. Mr. Galati pointed
3 out that the local Air District was willing to go
4 with a certain level of mitigation that was
5 reflected in their agreement with the applicant.
6 And staff required more than that agreement
7 required as far as mitigation goes for impacts in
8 San Joaquin County, is that correct?

9 MR. BIRDSALL: That's correct. The
10 question of transport has been overhanging this
11 case really since the beginning. And all parties
12 have agreed that some kind of mitigation beyond
13 the emission reduction credits provided within the
14 Bay Area Air Quality Management District would
15 need to be provided.

16 And the San Joaquin Valley Air District
17 developed an air quality mitigation plan with the
18 applicant that staff reviewed very carefully. And
19 staff found that additional mitigation would be
20 necessary.

21 Now, staff used a number of assumptions
22 in that analysis; one of the assumptions was the
23 70 percent factor. But the bottomline, as Mr.
24 Galati has pointed out, is that staff is requiring
25 mitigation above and beyond what the San Joaquin

1 Valley Air District had recommended for this plant
2 in their original air quality mitigation
3 agreement.

4 MR. KRAMER: Okay, thank you. As far as
5 some of the other points raised by Mr. Sarvey, and
6 I may hit some of them that he hasn't raised
7 orally today, but he raised in his comments.

8 I actually intended this written filing
9 that's become so controversial to be helpful
10 because the parties and the Commission hopefully
11 would have some advance -- an advance opportunity
12 to review our thoughts.

13 Because Mr. Sarvey's comments were not
14 served electronically like everyone else had to,
15 we didn't actually receive his comments until I
16 believe it was Thursday of last week. And, you
17 know, it's basically a village it takes to write
18 this sort of thing and review it. So it took us a
19 few days to turn it around. And unfortunately we
20 couldn't provide it to anyone until yesterday.

21 But let me hit the high points so that
22 it's place in the record isn't of terrible
23 consequence one way or another.

24 We believe that the air quality findings
25 are supported by substantial evidence. There is

1 ample evidence in this record for the 70 percent
2 effectiveness factor. The idea there is that I
3 think the value Mr. Sarvey would like to use would
4 be an average value for all emission credits
5 anywhere in the Bay Area; so an average over the
6 whole Bay Area.

7 Many parts of the Bay Area are very far,
8 certain meteorologically, from Tracy; something
9 that's emitted in San Jose is going to have a
10 tough time getting out there. But staff studied
11 the relationship of air masses between the
12 Pittsburg/Antioch area and the Tracy area and
13 found that there was a much closer connection.

14 So if you took the average for the Bay
15 Area that might be on the order of 27 percent, I
16 believe is the number people use. But if you just
17 look at the close credits, the Pittsburg/
18 Antioch's, staff felt 70 percent was appropriate.

19 We've discussed this in various hearings
20 and workshops. Mr. Sarvey keeps bringing up new
21 ideas during the comment periods. This has to end
22 at some point. This can't be a debate that goes
23 on forever. We have to call a timeout; decide the
24 case on the evidence that we have after we've
25 given everyone a reasonable opportunity to present

1 their case, which we believe has occurred.

2 In many cases Mr. Sarvey wants to look
3 just at the unmitigated impacts of the project.
4 In other words, what's coming out of the stacks
5 without taking into account the offsets, both in
6 the form of ERCs, discounted in various ways
7 depending on where they are. For instance, the
8 landfill paving discount, the ERCs were discounted
9 because of how much of it was actually PM2.5,
10 which is what we were more interested in. The 70
11 percent for Pittsburg/Antioch.

12 And then also condition AQC-7, setting
13 up a program. We don't know exactly how those
14 additional reductions are going to come because
15 the program hasn't been funded or implemented yet.
16 But it is going to produce reductions. Or if it
17 doesn't, there are going to be some limits on the
18 operation of the power plant. It's not going to
19 be able to operate full tilt until these benefits,
20 or the reductions in emissions elsewhere have been
21 produced.

22 So, we think that's a key assumption
23 that Mr. Sarvey should not be making, that he
24 should be comparing unmitigated emissions. He
25 should be comparing, instead, emissions after the

1 mitigation has been applied.

2 And in that context then his concerns
3 about these other development projects, it almost
4 sounds as if he's asking this power plant to clean
5 up other projects. And that, of course, is
6 inappropriate. This power plant is only
7 responsible, under CEQA, for its impacts, the
8 impacts that it causes directly or indirectly.

9 As far as those other projects, again,
10 staff has explained, most recently at the April
11 hearings, that the background concentrations that
12 we have today, in other words the ambient air
13 measurements, they adequately represent what will
14 be achieved because of future growth for projects
15 such as these residential areas, small business
16 parks. Because our cars are getting cleaner. I
17 think probably even our very small sources, water
18 heaters, home heaters, that sort of thing, those
19 are the small sources that you find in these
20 residential developments.

21 It's not power plants, cement plants,
22 big producers. Those types of operations would
23 have to go get their own permits from the Air
24 District.

25 So, we can take today's background level

1 and even though there will be more people driving
2 more cars, more miles, the net effect of the
3 increases in the efficiency of controls of those
4 engines means that the total amount of emissions
5 that they put out will be the same or less than
6 what we have today.

7 And staff believes that's a very
8 reasonable assumption. They make it in all of
9 their cases. If we're going to question that,
10 obviously we're going to have to go back and re-
11 analyze things. But that is the approach that
12 staff takes. We believe it encompasses all of the
13 projects that Mr. Sarvey has suggested need to be
14 included in the cumulative impact analysis. And
15 there is no reason to do any more work on that
16 analysis.

17 Ammonia slip, the Massachusetts cases
18 appear to have taken a different approach.
19 They're willing to have more direct PM emissions
20 in favor of reducing the ammonia slip. Staff is
21 not convinced that this project or any other power
22 plant of this size could meet its other emission
23 requirements that we've set, which are pretty low,
24 very low, in fact, and still stay under the
25 ammonia slip limit that Mr. Sarvey is proposing.

1 We do believe, however, that whenever
2 the plant can, and it will be probably most of the
3 time except when it's starting up and shutting
4 down, because ammonia costs money and a prudent
5 operator of a plant is going to want to use only
6 as much ammonia as he absolutely has to, that
7 there are economic incentives for this applicant
8 to keep the slip far below 5 ppm.

9 We just don't believe we can say you
10 have to be at 2 ppm all the time because there
11 will be times during their operation cycles that
12 they can't achieve that.

13 That's not everything we said in these
14 seven pages. But I believe those are the high
15 points that we want to make sure that we've
16 covered for you today.

17 I'm sorry, I need to make one more
18 point. Those of us who have been around long
19 enough I think intuitively know this, but staff's
20 analysis of health risks from power plant
21 emissions, whether they're toxics or criteria air
22 pollutants, is handled in two separate tracks.
23 One is the air quality analysis for criteria
24 pollutants that are regulated by the air
25 districts. And then all the other emissions are

1 discussed and analyzed in a health risk assessment
2 that's conducted in the public health section of
3 the staff analysis.

4 Mr. Sarvey has argued that the health
5 risk assessment needs to include PM2.5, but that's
6 a criteria pollutant now that is regulated by the
7 air districts, and it's covered in the air quality
8 analysis.

9 And with that I think I will sit down,
10 at least for a moment, unless you have questions.

11 COMMISSIONER GEESMAN: Are there
12 questions for Mr. Kramer?

13 COMMISSIONER BOYD: Mr. Kramer, can you
14 indicate for us how much money is pledged between
15 AQC-7 and AQC-9 to address air quality issues in
16 the Tracy area?

17 MR. KRAMER: Mr. Galati has a number on
18 the tip of his tongue.

19 MR. GALATI: It's \$1.6 million; \$600,000
20 which was offered by this applicant and
21 memorialized in AQC-9 to be used directly with the
22 City of Tracy in coordination with the San Joaquin
23 Valley Air Pollution Control District.

24 And in addition there is approximately a
25 million dollars going to San Joaquin Valley to

1 additional air quality improvements in the region.

2 And, again, if I can just point out
3 what's different about this mitigation package
4 than maybe what you saw in East Altamont, we have
5 also taken a limit on operating such that not one
6 of those emissions would occur until those real
7 reductions are obtained.

8 That's how AQC-7, which the applicant
9 proposed, it works as a sliding scale.

10 COMMISSIONER BOYD: Thank you.

11 COMMISSIONER GEESMAN: Any other
12 questions for Mr. Kramer?

13 Mr. Galati, do you have any response to
14 Mr. Sarvey's substantive points that you want to
15 share with us?

16 MR. GALATI: Yeah, I promise I'll be
17 brief. This project had quite a few evidentiary
18 hearings. The evidentiary process, although
19 painful, often sitting in this chair, did its job.
20 Mr. Sarvey had every opportunity to raise each and
21 every issue that you're hearing about right now,
22 and there was debate and discussion in an
23 evidentiary format.

24 This is not the appropriate place for us
25 to raise all of these issues again. We concur

1 with staff's opinion that it should, at some point
2 in time, end.

3 I'd like to just summarize for you what
4 we see the end. This project is mitigating in
5 just about every area, I think, a more stringent
6 mitigation package than you approved in East
7 Altamont.

8 Specifically, East Altamont has a 10 ppm
9 ammonia slip. This applicant was responsible and
10 came in with a 5 ppm ammonia slip. And we're
11 continuing to talk it out whether it should go
12 lower. Staff and applicant agree that the ammonia
13 slip is not an issue here. And again, we would
14 ask that this process come to an end. Thank you.

15 COMMISSIONER GEESMAN: Is Mr. Boyd still
16 on the phone? Does he wish to respond to Mr.
17 Sarvey's substantive points?

18 MR. BOYD: Hello. No, I basically, as I
19 said earlier, I agree with what Bob put forward.
20 We've talked about it and I concur with his
21 position.

22 COMMISSIONER GEESMAN: Okay, thank you,
23 Mike. The gentleman from the Building Trades?

24 MR. LUBOVISKI: Myself and three other
25 speakers. We will each speak about a minute and a

1 half.

2 My name is Barry Luboviski; and for the
3 record Luboviski is spelled L-u-b, as in boy, o-v,
4 as in victor, -i-s-k-i. I'm Secretary-Treasurer
5 of the Building and Construction Trades Council of
6 Alameda County, AFL-CIO. I will be speaking.

7 In addition, Don Campbell, Executive
8 Direction of the National Electrical Contractors
9 Association, Northern California Chapter, will be
10 speaking.

11 And Obray VanBuren, representative of
12 the Pipetrades Association, and also of Plumbers
13 and Steamfitters Local Union No. 342, will be
14 speaking.

15 And lastly, Victor Uno, Business Manager
16 of the International Brotherhood of Electrical
17 Workers Local Union No. 595, will be speaking.

18 My comments are the following: The
19 Building Trades Council represents 28 local unions
20 with a combined membership in Alameda County of
21 approximately 40,000 workers. Myself and a number
22 of representatives of these unions have followed
23 this process closely for the 2.5 years that it has
24 been moving forward starting, I believe, looking
25 back at my notes, back in January of 2002.

1 We've been impressed with the due
2 diligence on the part of the staff; we've been
3 impressed with the deliberation that has gone
4 forward in an attempt to identify possible
5 impacts, and to address those with appropriate
6 mitigations.

7 We feel the process has been appropriate
8 and that the conclusions of the staff are
9 appropriate; and that this project now should go
10 forward with approval today.

11 We've seen that the U.S. Fish and
12 Wildlife Service has given their approval. That
13 both the Bay Area and the San Joaquin Air
14 Districts have given their approval.

15 We've seen point-by-point the issues
16 addressed and we believe that the proper consensus
17 at this point is that this project, which will
18 help protect the grid in California, the
19 electrical grid of California, is both prudent and
20 practical. And is a necessary safeguard against
21 the type of electrical stoppages that we saw in
22 California earlier.

23 And so for that reason our Building
24 Trades Council and all the unions support this
25 project.

1 I'm now going to hand the phone over to
2 Mr. Campbell, the Executive Director of National
3 Electrical Contractors Association.

4 MR. CAMPBELL: I'm thankful for the
5 opportunity to say a few words about this project.
6 The National Electrical Contractors Association
7 has been quite involved with the power issues of
8 California since deregulation has come into effect
9 some years ago. And we have been quite vocal in
10 that process.

11 We stand as an association of
12 contractors in support of this project going
13 forward. I'm the Executive Director of the
14 Northern California Chapter, as was mentioned; and
15 we represent about 200 contractors that employ
16 about 2000 electrical workers in the Alameda, San
17 Joaquin and Calaveras County area. And we stand
18 in absolute support of this project going forward.
19 And I thank you for your time.

20 MR. LUBOVISKI: I will now hand the
21 phone over to O Bray VanBuren with the Pipetrades
22 Association and with the Plumbers and Steamfitters
23 Local Union No. 342.

24 MR. VAN BUREN: Good morning. My name
25 is O Bray VanBuren, spelled O-b-r-a-y

1 V-a-n-B-u-r-e-n. And I represent the Pipetrades
2 Association and UA Local 342, Plumbers and
3 Steamfitters.

4 We're in support of this project. We've
5 been watching the process over 2.5 years and we
6 know that you guys have taken all the precautions
7 to see that this project meets all your
8 qualifications.

9 This would have a positive effect on the
10 economic standing of our members, and we think it
11 would have a positive effect economically for the
12 area, in general. We support this project and we
13 hope that you'll move this project forward.

14 Also, we believe that it will be
15 important as far as making sure that we don't have
16 power outages in the future. Thank you for your
17 time.

18 MR. LUBOVISKI: And now the last speaker
19 with us here, Victor Uno, the Business Manager of
20 the International Brotherhood of Electrical
21 Workers Local Union No. 595.

22 MR. UNO: Yes, I want to thank the
23 Commission Members for allowing me to speak to you
24 in this fashion.

25 I represent 2000 members, electricians,

1 in Alameda County and also San Joaquin County, on
2 both sides of the County there. We have also been
3 following this project over the last two years.
4 I've attended some of the meetings.

5 I really appreciate the due diligence
6 that the Commission has paid to this process. I
7 think our members are very concerned about
8 maintaining environmental standards, issues of air
9 quality. We have informed our members about these
10 issues.

11 Our members are strongly in support of
12 this measure. We think that the reports that have
13 been given, the different studies have shown that
14 you have followed the process in a proper manner.
15 Because we have members that live in Tracy, live
16 in Pleasanton, and the different Bay Areas, we
17 definitely have been concerned about some of these
18 issues.

19 But we support this project
20 wholeheartedly, and would urge the Commission to
21 proceed in your duty in this process and approve
22 this project.

23 Again, I want to thank you for allowing
24 me to speak to you in this manner. Thank you very
25 much.

1 MR. LUBOVISKI: We have no other
2 comment, and thank you for affording us the time.

3 COMMISSIONER GEESMAN: Is there anyone
4 else on the phone that wishes to address the
5 Commission?

6 Is there anyone in the audience that
7 wishes to address us? Mrs. Sarvey?

8 MRS. SARVEY: Good morning; Susan
9 Sarvey, Clean Air for Citizens and Legal Equality.
10 I have a couple of comments. First the whole
11 argument about CO issue. I attended, I think,
12 just about every single meeting that we had on
13 this plant. Staff never volunteered that in
14 California 2 ppm had been attained in CO. It was
15 argued and discussed at great length, and it was
16 always discussed from the point of view that that
17 was only possible on the east coast, it was not
18 done in California.

19 If you truly feel that you have a
20 defensible position for not allowing us the best
21 control technology in Tracy, when we are in severe
22 nonattainment, I feel they would have been
23 forthcoming and said, we sited Magnolia with 2 ppm
24 but we don't need to do it for the Tesla plant;
25 they need to be at 4 for these reasons. And we

1 would have had an open debate on that issue.

2 The entire air quality analysis done by
3 Mr. Brewster was based on the assumption that air
4 quality in my community was going to get better
5 because of the new automobiles and new engines
6 that are being built.

7 Since we have the PMPD several very
8 significant things have happened in our area. One
9 of them being that the high court ruled trucks can
10 now come into California and drive through the
11 Central Valley from Mexico. I don't know who's
12 been to Mexico, but have you seen a truck in
13 Mexico? That's a nightmare.

14 And any new control technology that's on
15 the vehicle that I am paying for will only
16 hopefully offset that truck. It's not going to
17 improve my air quality one bit.

18 I think the air quality issue needs to
19 be completely revisited. And as for the 70
20 percent transport factor, yes, it was discussed
21 with ARB initially in the process. But during the
22 conclusion and the middle of the process, they ARB
23 was not consulted. At the end they were not told
24 that a 70 percent transport factor had been
25 adopted.

1 So, yes, initially they were contacted.
2 But in the long haul they were not told about the
3 70 percent transport factor. And you should be
4 asking them how they feel about that.

5 And I really think you need to
6 reconsider Mr. Birdsall's position because it is
7 completely opposed to Mr. Tuan Ngo's, who works
8 for staff, also. And it was based on Mr. Ngo's
9 not believing that the new technology was going to
10 make such a huge benefit to the Central Valley
11 that we would no longer have an air problem. And
12 Mr. Birdsall believes there will be.

13 So I do think you need to talk to the
14 ARB about this, because they were consulted
15 initially, but they were not informed of where it
16 ended up.

17 We are already over the state health
18 based standard for PM10 where I live. The cancer
19 risk where I live is three times the cancer rate
20 in the rest of the State of California. We're
21 three times higher. It's really scary where I
22 live how many people I know right now who have
23 cancer. I a friend who's dying right this second
24 of breast cancer; buried a friend two weeks ago
25 with pancreatic cancer within eight weeks of being

1 diagnosed. A ten-year-old child with my daughter
2 in school; she is being treated for leg cancer as
3 we speak, and brain cancer. It is not like you
4 go to Tracy and you don't know people who have
5 cancer.

6 We have extremely high asthma rates.
7 And the position that we don't get 2 ppm for CO
8 because we're not in severe nonattainment for CO,
9 what is up with that? I'm in severe nonattainment
10 for everything else. This idea that we're doing
11 something and it's going to get better, and we'll
12 look at it down the road does not work. That's
13 how I got in severe nonattainment in the first
14 place.

15 For the first time in the last three
16 months, I've been coming to these hearings for a
17 couple years, and people do not understand when I
18 talk about particulate matter. I have people
19 coming up, my cleaning lady's grandson, he's one
20 years old, he is in ICU right now. His doctor
21 told her he could die because he has been exposed
22 to a toxic air contaminant that's a particulate
23 that is in his lung. It's given him inflammation.
24 They're treating him for it, but the drug they're
25 treating it with has now caused pneumonia. It's a

1 double-edged sword.

2 So, it is a very serious problem. It's
3 not something abstract. These are real people.
4 And I can't believe how many people I've talked to
5 in the last three or four months who have said, I
6 never knew what you were talking about, but my kid
7 has an asthma attack, my kid is getting sick, and
8 the doctors are telling me it's from toxic
9 particulate. What is toxic particulate?

10 It has changed in Tracy in just the last
11 four months, the particulate levels. You can see
12 it if you live there. If you live there you know
13 what I'm talking about. The air is gross right
14 now.

15 But at the end of the PMPD I brought up
16 the issue that I was very very concerned about how
17 we had not heard from the Alameda County
18 Department of Public Health, who was going to be
19 responsible for overseeing the cooling towers of
20 the Tesla Power Plant for the recycled water and
21 Legionella.

22 And I was told to talk to the compliance
23 manager. And I spoke with her and the most
24 disturbing thing she told me was that, yes, she
25 was responsible for compliance, but legally she

1 had no right to make them turn off if there was a
2 Legionella outbreak. She could only fine them.
3 The only agency that had the ability to tell them
4 to turn off was the Department of Public Health in
5 Alameda County.

6 I have my phone records to prove that I
7 have called Alameda County Public Health
8 Department for over three weeks on a daily basis,
9 trying to speak to the woman who is responsible
10 for this. And she refuses to return my calls.

11 I have talked to so many underlings that
12 I am like blue in the face. I asked for a Freedom
13 of Information Act request so that I could ask how
14 they planned on overseeing and monitoring these
15 cooling towers, and I still didn't get a response.

16 So then when I called to file a
17 complaint that I did not get a response to my
18 Freedom of Information Act request for a form so I
19 could find out how they were going to monitor
20 these towers, someone tells me, well, off the
21 record we don't have a policy for doing that. And
22 we're trying to figure out how we're going to do
23 that. But we have never done that before.

24 So then I went on the internet and I
25 read about Legionella. There have been Legionella

1 outbreaks in this country. And the biggest
2 problem with a Legionella outbreak is doctors do
3 not know how to identify Legionella. So, until
4 people come into the hospital with respiratory
5 illness and die for reasons unknown, on autopsy
6 are found to have Legionella, at that point the
7 Center for Disease Control comes in and says, we
8 have to identify where the Legionella is coming
9 from and turn it off.

10 This could take weeks. Meanwhile, how
11 many people have died in Tracy unnecessarily
12 because we don't have an adequate monitoring
13 system for the Legionella outbreak?

14 Now, I know you're inclined to sit there
15 and tell me we won't let that happen, Susan. You
16 will have now licensed two plants within five
17 miles of my community, and no one ever came to any
18 of these hearings and discussed that monitoring
19 program.

20 We heard how you're going to control
21 biology; we heard how you're going to control
22 transmission. Don't you think this is kind of a
23 really serious issue we needed to know? How are
24 you going to monitor for Legionella and who is
25 going to tell them to turn off? Hey, turn that

1 plant off; you're making those people sick. Until
2 we figure out how to stop it. That is critical.
3 And for them to not be willing to share that
4 information is appalling.

5 And the other thing that happened in the
6 hearing was we were told that, because I requested
7 dry cooling because I was so concerned about the
8 Legionella issue, I was told that dry cooling was
9 not an option because it was okay with the water
10 supply because of the Delta-Mendota Canal and all
11 of that would not be impacted. That it was not
12 necessary to put the recycled water back into the
13 river.

14 You need to understand that tertiary
15 treatment water that is going in that cooling
16 tower is clean enough to go back into the river,
17 because you're going to be breathing it, heat it.
18 And in order for you to be able to breathe it
19 heated, it has to be 100 percent clean
20 practically. So it is safe to put it back in the
21 river.

22 Since our last PMPD we had the levee
23 outbreak. This just came out; that's why I
24 couldn't put it in public comment because I wasn't
25 allowed to because public comment was closed. As

1 bad as it was, it could have been worse. Federal
2 and state authorities have known the big waves or
3 an earthquake could cause a much bigger chain
4 reaction of levee failure across the Delta.

5 In such a scenario multiple islands
6 would be inundated and salt water would rush
7 inland, possibly forcing officials to shut down
8 the state and federal water pumps for months,
9 leaving some urban areas totally dry.

10 They have already shut down the pumps
11 outside of Tracy. They had to shut down the pumps
12 because we have too much salt water going in the
13 river. They have no fresh water to dump into the
14 river to counteract that salt water. So the only
15 way to deal with it is to turn it off.

16 And they now have people quietly meeting
17 down in southern California trying to figure out
18 how to tell southern Californians, hey, you really
19 need to start conserving water because we don't
20 have any water up north like we thought we did.

21 The water supply is not as secure as it
22 was made out to be. And this is proof. And if
23 you would like, I'll leave this article with
24 Margret and she can photocopy it for you, because
25 it is a really scary article.

1 And the Army Corps of Engineers has been
2 on our local television for the last two weeks
3 discussing the fact that the majority of the
4 levees are privately owned. There is no money to
5 maintain them. Three days before this levee broke
6 there was a call to the Army Corps of Engineers
7 that there was a boil and the person who answered
8 the phone said, is it clear water? It's okay.
9 And they didn't go out and fix it. And that's why
10 it broke away. They only come if the water's
11 cloudy.

12 I own property on the levee directly
13 next to it. I've had a boil. It flooded my
14 garage. It happens before you know it. I was
15 really lucky that they were able to shore it up.
16 There are so many miles of levee in the Delta, in
17 Tracy, in Sacramento. And you are not going to
18 know what a problem is until it breaks here.

19 But if you came to Tracy you would see
20 the farmland looks like an ocean right now. And
21 when it's windy, we do have big waves on those
22 flooded fields. You really need to look at the
23 dry cooling issue. Because we already have a
24 problem with the water.

25 So many things have come up in just the

1 last two weeks. You really need to look at these
2 issues. These guys don't even have an ISO
3 contract. What is the rush? It's not like
4 they're going to go sell -- I'm not preventing
5 them from fulfilling their contract. They don't
6 even know where they're going to sell it to.

7 And the whole argument that we're going
8 to have blackouts. I want to know, you have
9 already built 24 plants, according to the website,
10 peaker plants, little plants all over the place,
11 24 new ones. And supposedly it was happening so
12 that you could close down the ones that were not
13 as clean as the new ones.

14 You have not closed a single plant in
15 California. You've added 24. And I have one in
16 my town right now that's only run four and a half
17 hours last year. Why are we having a blackout?
18 Why are we having a blackout? And when is enough
19 enough?

20 How about it's great that we're making
21 money building power plants and it's good for the
22 economy, but if you can't breathe you can't spend
23 that money because you're dead and buried in the
24 ground.

25 It is your job to be unbiased, impartial

1 and protect our health. And it needs to be done.
2 You promised my Assemblywoman that a cumulative
3 health care analysis would be done. And everybody
4 has acknowledge that it was not done. And you
5 have deemed it to be completely unnecessary, even
6 though our cancer rate is three times higher than
7 the rest of the state.

8 I have a handout for you that will show
9 you this, inhalation cancer risk to Tracy. And in
10 terms of them getting to do whatever they did with
11 that paperwork they filed last night, that is
12 wrong. Because I didn't get to send you my
13 written comments from everything I've been finding
14 out in the news about what's directly happening
15 and affecting my community nd you, because it was
16 after Monday. I don't think you should be able to
17 let them talk verbally about it or anything else.
18 They're right; we had a whole bunch of hearings
19 and supposedly it was all supposed to be
20 discussed.

21 They should have discussed that 2 ppm
22 way back when we were talking. And you should
23 have called them on it, Mr. Geesman, because you
24 knew. I'm not here playing hey, let's make a
25 deal, can I find out the treasure-hunt facts.

1 This is my health and this is my life. You should
2 have acknowledged that it had happened. And I
3 don't know what was up with that, but it kind of
4 disturbs me. It's really disturbing what goes on
5 in these hearings.

6 The staff is supposed to be impartial
7 and look at everything. And my experience in this
8 siting case is it's whatever we have to do to be
9 able to site the plant. And I am sure you're
10 going to license this plant today, and god help
11 all of us who live in Tracy.

12 Thank you.

13 COMMISSIONER GEESMAN: Thank you, Mrs.
14 Sarvey.

15 Are there any other members of the
16 public who choose to address the Commission at
17 this time?

18 Hearing none, we have a couple of items
19 to deal with before we call for a vote on the
20 PMPD, itself.

21 First is Mr. Sarvey's motion to strike
22 the staff's written comments. We allowed Mr.
23 Kramer to verbally summarize those comments.

24 And I think the question is whether the
25 Commission feels Mr. Sarvey has been prejudiced by

1 the staff having submitted written comments, as I
2 indicated they were handed to me as I was walking
3 downstairs, so I've not had a chance to review
4 them.

5 But what's the pleasure of the
6 Commission?

7 COMMISSIONER BOYD: Well, it's a
8 difficult question. I got these comments
9 admittedly last night and read them. But I didn't
10 know the rest of the context in which that is
11 taken. I don't think there was anything malicious
12 intended. I think it was meant to be helpful.

13 But I don't know if we can proceed on
14 this matter without taking into account these
15 documents. I'm not sure that the discussion of
16 other items is necessarily relevant to the record
17 that's been created to date.

18 I'd almost have to ask my fellow
19 Committee Members on a little bit of their
20 thoughts.

21 COMMISSIONER GEESMAN: You know, I don't
22 think the existence of Mr. Kramer's written
23 comments apply one way or the other. They
24 certainly haven't influenced me, so I'd be
25 completely comfortable with a motion to strike.

1 On the other hand, I don't think that
2 they prejudiced Mr. Sarvey. So, I'd be
3 comfortable with a motion to deny his request to
4 strike. It's really a question of how the
5 Commission would most appropriately like to
6 proceed, both in this case and probably in sending
7 a message to the staff as to when to file comments
8 in future cases.

9 COMMISSIONER PFANNENSTIEL: I saw the
10 comments this morning shortly before I came down
11 here. Did not have a chance to do anything more
12 than skim them. I think that they probably should
13 be struck. I don't see --

14 COMMISSIONER GEESMAN: Okay.

15 COMMISSIONER PFANNENSTIEL: -- any value
16 to --

17 COMMISSIONER GEESMAN: We'll take --

18 COMMISSIONER PFANNENSTIEL: -- having
19 them in.

20 COMMISSIONER GEESMAN: We'll take that
21 as a motion. Is there a second to the motion?

22 COMMISSIONER BOYD: I'll second the
23 motion.

24 COMMISSIONER GEESMAN: It's been moved
25 and seconded. Is there any further discussion?

1 All those in favor of granting Mr.
2 Sarvey's motion to strike please say aye.

3 (Ayes.)

4 COMMISSIONER GEESMAN: All those
5 opposed? Motion to strike carries four to zero.

6 Another item that we need to deal with,
7 Mike Boyd, representing CARE, had submitted a
8 request for clarification on May 31st in which he
9 asked the Committee to direct staff to explain why
10 the staff had failed to analyze impacts of the
11 project's toxic emissions on adjacent biological
12 resources.

13 The public health testimony indicated
14 that toxic emissions do not travel far from their
15 source. So Mr. Boyd wanted to know about the
16 impact on adjacent biological resources.

17 Staff filed a response on June 10th
18 explaining that effects of criteria and
19 noncriteria pollutants on biological resources
20 were discussed in the record and that no
21 significant impacts were identified.

22 I want to acknowledge that the staff did
23 respond to Mr. Boyd's request for clarification.

24 And with that, I think that the question
25 before us is there a motion to approve the Revised

1 PMPD and errata.

2 COMMISSIONER BOYD: So moved.

3 COMMISSIONER PFANNENSTIEL: Second.

4 COMMISSIONER GEESMAN: It's been moved
5 and seconded. Is there any further discussion?

6 All those in favor of the motion, please
7 say aye.

8 (Ayes.)

9 COMMISSIONER GEESMAN: All those
10 opposed? Motion carries four to zero.

11 I want to thank the staff and the
12 applicant for the way you've conducted the case;
13 and also to comment Mr. and Mrs. Sarvey and Mr.
14 Boyd for the large impact you had on the
15 mitigation measures here.

16 Commissioner Rosenfeld, the chair is
17 yours once again.

18 ACTING CHAIRMAN ROSENFELD: Thank you
19 for doing this troublesome issue. And, Bob
20 Sarvey, thank you again for all your contribution.
21 In observing this from afar I think you have
22 contributed to the mitigation, and you have
23 certainly made me think about we better go in for
24 being thoughtful about this and for more
25 conservation. So, thank you.

1 MR. SARVEY: Thank you, Commissioner.

2 ACTING CHAIRMAN ROSENFELD: Okay. Boy,
3 we're through item 2.

4 Item 3, Mountainview. Possible approval
5 of a petition for partial re-route of the 17-mile
6 natural gas pipeline. Commissioner Geesman, you
7 seem to be very much upfront today. Are you
8 willing to guide this?

9 COMMISSIONER GEESMAN: Yes, I think
10 Donna is here to walk us through it.

11 UNIDENTIFIED SPEAKER: (inaudible).

12 MS. TRONAAS: Is that better? Okay, I'm
13 Nancy Tronaas standing in for Donna Stone this
14 morning.

15 This petition for the Mountainview Power
16 project is to modify portions of the 17-mile
17 natural gas pipeline. The proposed modifications
18 will add a valve station at the interconnect point
19 to comply with recent changes in federal
20 regulations.

21 It will reroute the pipeline under the
22 Union Pacific tracks due to insufficient clearance
23 on the Mill Street Bridge. It will reroute the
24 pipeline through the Tippiecanoe Bridge, over the
25 Santa Ana River rather than drilling under the

1 river. And add up to five temporary construction
2 laydown areas along the pipeline route to
3 facilitate the construction.

4 Staff has analyzed the proposed changes
5 and we determined the required findings of 1769
6 can be made. And that there will be no
7 unmitigated environmental effects with the
8 implementation of the recommended revisions to
9 biological conditions of certification. No public
10 comments were received on this petition or the
11 staff analysis.

12 And staff recommends approval and
13 project representatives are here if you have any
14 technical questions.

15 COMMISSIONER GEESMAN: The Siting
16 Committee reviewed this and found it to be a good
17 modification.

18 ACTING CHAIRMAN ROSENFELD: Do I hear a
19 motion?

20 COMMISSIONER GEESMAN: I would move the
21 item.

22 COMMISSIONER PFANNENSTIEL: Second.

23 ACTING CHAIRMAN ROSENFELD: All in favor
24 say aye.

25 (Ayes.)

1 ACTING CHAIRMAN ROSENFELD: Four to
2 nothing.

3 Item 4, California Public Utilities
4 Commission. Possible approval of a resolution
5 adopting a collaborative mode of working with the
6 CPUC in connection with integrated electricity
7 resource planning and procurement. Jennifer
8 Tachera is here to tell us about it.

9 MS. TACHERA: Good morning,
10 Commissioners. In response to the California
11 Public Utilities Commission's invitation for the
12 other state energy agencies to join them in this
13 proceeding, Commissioner Geesman and President
14 Peevey sent a joint letter stating that desire.

15 And this resolution adopts a
16 collaborative mode with the CPUC and invites them
17 to participate in our IEPR proceeding.

18 ACTING CHAIRMAN ROSENFELD: Seems
19 wonderful to me. Any comments by any of the
20 Commissioners?

21 COMMISSIONER GEESMAN: I think this is
22 an important way to both continue the harvest of
23 some of the benefits from the 2003 IEPR, and also
24 to make certain that the work that we have
25 underway for both the 2004 update and the 2005

1 IEPR is well calibrated and well structured to be
2 of some assistance to the PUC in their procurement
3 process.

4 I would move the item.

5 COMMISSIONER BOYD: I'll second the item
6 and just indicate that I, too, see this as another
7 major stepping stone along the path to greater
8 integrated collaboration and cooperation in
9 program development between these two agencies.
10 And I look forward to a positive contribution for
11 both of us to the overall subject.

12 ACTING CHAIRMAN ROSENFELD: All those in
13 favor of item 4?

14 (Ayes.)

15 ACTING CHAIRMAN ROSENFELD: Four to
16 zero; thank you, Jennifer.

17 Item 5, 2004 and '5 geothermal program
18 funding recommendations. Possible approval of
19 projects selected as a result of the PON for those
20 years. Elaine Sison-Lebrilla.

21 MS. SISON-LEBRILLA: Good morning. In
22 December of 2003 the Commission released a program
23 opportunity notice for the geothermal target
24 solicitation. Program funding is through the
25 Public Interest Energy Research program and the

1 geothermal resources development account.

2 In accordance with the application
3 manual for the geothermal target solicitation each
4 final proposal was screened for completeness and
5 reviewed by Commission Staff and outside technical
6 consultants. Then the Commission's Technical
7 Advisory Committee reviewed, evaluated and scored
8 completed proposals submitted in response to the
9 solicitation using the criteria described in
10 regulations.

11 Based on the TAC's evaluation scores and
12 suggested conditions on funding the Commission's
13 Research Development and Demonstration Committee
14 has made its proposed funding recommendations for
15 this solicitation.

16 The proposed awards total approximately
17 \$4.6 million; 4 million coming from PIER and 2.6,
18 approximately 2.6 million coming from GRDA, GRDA.

19 For the record I'd like to list the
20 recipients of these awards, the title of the
21 project and the dollar amount. And also
22 recommended conditions for these awards.

23 ACTING CHAIRMAN ROSENFELD: These, of
24 course, come through the Committee. Any comments
25 by --

1 COMMISSIONER GEESMAN: I'm fully
2 supportive, Mr. Chairman, and I would move the
3 item.

4 COMMISSIONER PFANNENSTIEL: I second the
5 motion.

6 ACTING CHAIRMAN ROSENFELD: Looks like
7 this will go easily.

8 All in favor please say aye.

9 (Ayes.)

10 ACTING CHAIRMAN ROSENFELD: Four to
11 nothing; thank you, Elaine.

12 MS. SISON-LEBRILLA: Thank you.

13 ACTING CHAIRMAN ROSENFELD: Four loans.

14 Item 6, County of San Diego. Possible
15 approval of a loan to the County of San Diego for
16 \$3 million to install energy efficient HVAC
17 systems and controls. The project is expected to
18 save \$400,000; has a simple payback of seven
19 years. Bond funds.

20 Ram Verma is going to say a few words.
21 We have three of these to get through, so you
22 probably don't have to say very many words, Ram.

23 (Laughter.)

24 MR. VERMA: Good morning. Staff is
25 seeking approval of a \$3 million loan to the

1 County of San Diego. With the help of this loan
2 the County will install energy efficiency measures
3 at six facilities. These facilities include
4 office buildings, retention facilities and a
5 hospital. Total area of these buildings is more
6 than 2 million square feet.

7 And energy efficiency measures include
8 time clocks on -- fans; variable frequency drives
9 on chillers; chilled water pumps; condenser pumps
10 and cooling towers. They will also replace three-
11 way valves with two-way valves. And they will
12 (inaudible) economizers and will integrate them
13 with EMS system.

14 This project will cost \$3.5 million.
15 Our loan amount is \$3 million. The simple payback
16 is 7.4 years. The interest rate on this loan will
17 be 3.95 percent; and the funds will come from the
18 Energy Conservation Assistance Account and the
19 bond fund.

20 This loan was approved by the Energy
21 Efficiency Committee. Any questions?

22 ACTING CHAIRMAN ROSENFELD: Sounds like
23 the Energy Efficiency Committee might want to move
24 it.

25 COMMISSIONER PFANNENSTIEL: And the

1 Energy Efficiency Committee moves the motion.

2 COMMISSIONER GEESMAN: Second.

3 ACTING CHAIRMAN ROSENFELD: All in favor
4 please say aye.

5 (Ayes.)

6 ACTING CHAIRMAN ROSENFELD: Four to
7 nothing, thank you.

8 Ram, I guess -- no, we're changing
9 spokesmen. Are you continuing on item 7?

10 MR. VERMA: Don is the --

11 ACTING CHAIRMAN ROSENFELD: Oh, okay.

12 MR. VERMA: Thank you.

13 ACTING CHAIRMAN ROSENFELD: Item 7,
14 Paradise Unified School District. Possible
15 approval of a nearly \$600,000 loan for the
16 Paradise Unified School District in Oroville for
17 the installation of energy efficient HVAC and
18 classroom lighting systems. These projects are
19 estimated to save the School District \$62,000 each
20 year in electricity costs. And of a simple
21 payback of 9.5 years. Bond funds and/or ECAA
22 funded. By Don Kazama.

23 MR. KAZAMA: Good morning,
24 Commissioners. The Paradise Unified School
25 District near Oroville has applied to the Energy

1 Commission for a Energy Conservation Assistance
2 Act and/or bond fund loan in the amount of
3 \$596,000 to replace their old inefficient air
4 conditioning units with new efficient models.

5 And also to install a control system to
6 control the units. In addition they will be
7 replacing their older inefficient lighting system
8 with new generation T8 fluorescent lamps and
9 electronic ballasts.

10 As mentioned, these projects will save
11 the School District a substantial amount of
12 operating costs annually. It will reduce their
13 electricity costs by \$62,400 each year.

14 And because of the savings these
15 projects will pay back in less than ten years, 9.5
16 years. Ten years is the requirement to receive
17 the ECAA loan. This item was moved and approved
18 by the Energy Efficiency Committee for calendaring
19 today at the full business meeting. And staff
20 recommends that the Commission approve this loan
21 to the District.

22 What is your pleasure? I'd be happy to
23 answer any technical questions for you.

24 ACTING CHAIRMAN ROSENFELD: One small
25 question. There's matching money from the School

1 District?

2 MR. KAZAMA: The School District
3 initially had received an allocation from the
4 State Allocation Board to modernize their
5 campuses, so they are more than matching funds for
6 this project. The overall modernization fund was
7 in excess of \$1 million. We are loaning \$596,000
8 to make incremental efficiency improvements. That
9 is correct.

10 ACTING CHAIRMAN ROSENFELD: I don't want
11 to seem hostile to this, but I am a little
12 puzzled. If the total project is more like \$1.6
13 million, then the overall payback time is really
14 wrong.

15 MR. KAZAMA: That is correct, but we are
16 loaning on the incremental improvements --

17 ACTING CHAIRMAN ROSENFELD: No, I
18 realize that our rules just have to say that our
19 part gets paid back in less than ten years.

20 MR. KAZAMA: Our part gets paid back in
21 less than ten years, 9.5 years, barely.

22 COMMISSIONER PFANNENSTIEL: I move the
23 item.

24 COMMISSIONER BOYD: I'll second the
25 item.

1 ACTING CHAIRMAN ROSENFELD: All in favor
2 please say aye.

3 (Ayes.)

4 ACTING CHAIRMAN ROSENFELD: Four to
5 nothing.

6 MR. KAZAMA: Thank you.

7 ACTING CHAIRMAN ROSENFELD: Thank you,
8 Don Kazama.

9 Eight, City of Redondo Beach. A loan
10 for about \$100,000 to install CO2 sensors in the
11 library and performing arts center, and exhaust
12 fan for carbon monoxide control in the parking
13 garage. The project is estimated to save \$13,000
14 a year and has a simple payback of eight years.
15 We're a little safer. Tony Wong.

16 MR. WONG: Good morning, Commissioners.
17 Redondo Beach proposed to install the CO2 sensor,
18 as well as the carbon monoxide sensors at various
19 city facilities. Basically the CO2 sensor will
20 detect the increased or decreased level of
21 occupancy, and also modulate fresh air according
22 to the need, not based on a fixed maximum designed
23 occupancy. The energy costs associated with
24 cooling outside air will be reduced.

25 And the City is going to use the air

1 test technology model TR9291, which is certified
2 by the Commission Appliance Certification Program.

3 And we have evaluated the project and
4 believe that the project is technically and
5 economically feasible. And also meets the loan
6 criteria. And the Efficiency Committee approved
7 the project. And I'm happy to answer any
8 questions you may have.

9 COMMISSIONER PFANNENSTIEL: I move the
10 item.

11 COMMISSIONER BOYD: Second.

12 ACTING CHAIRMAN ROSENFELD: All in
13 favor?

14 (Ayes.)

15 ACTING CHAIRMAN ROSENFELD: Thank you.
16 Number 9, Sidley, Austin, Brown and Wood, LLP.
17 Possible approval of contract 140-04-001 for
18 \$60,000, I think that's over three years, to
19 provide bond and tax legal advice to support the
20 Energy Conservation Assistance Act funded loans.
21 Liz Flores.

22 MS. FLORES: Good morning. This is a
23 \$60,000 legal services contract to support the
24 Commission's Energy Conservation Assistance
25 Account or ECAA program. In 2003 the Consumer

1 Power Authority issued a \$28 million bond for the
2 ECAA program. The proceeds from the bond are used
3 to make loans for energy efficiency measures.

4 The Power Authority contracted with the
5 lawfirm of Sidley, Austin, Brown and Wood as bond
6 counsel for this bond sale. After the bond deal
7 closed, the Energy Commission wanted to maintain
8 access to Sidley's legal services, so we had a
9 contract with the Power Authority. And the Power
10 Authority made its contract with the Sidley
11 lawfirm.

12 Our contract with the Power Authority
13 expires June 30th of this year. This contract is
14 directly between the Energy Commission and the
15 Sidley firm for three years. The Sidley firm will
16 provide tax advice on the eligibility of new loans
17 and help the Energy Commission with administrative
18 tasks required by the bond documents, such as
19 reporting and disclosures. The Sidley firm can
20 also help revised bond documents or write opinion
21 letters if necessary.

22 And with that I ask for approval of the
23 contract. Any questions?

24 COMMISSIONER GEESMAN: I understood you
25 to say that if, in fact, we seek an opinion letter

1 from the firm that that would be included under
2 this contract? That there wouldn't be an extra
3 charge for that?

4 MS. FLORES: The bond documents provide
5 that if certain events occur, for example if we
6 need to revise the bond documents, we're required
7 to have an opinion of bond counsel, --

8 COMMISSIONER GEESMAN: Right.

9 MS. FLORES: -- so this particular pot
10 of money, the \$60,000, would cover that type of an
11 opinion.

12 COMMISSIONER GEESMAN: Okay.

13 ACTING CHAIRMAN ROSENFELD: As I
14 remember this came through the Efficiency
15 Committee?

16 COMMISSIONER PFANNENSTIEL: Yes. I just have
17 one question. Currently we have a contract
18 through the Power Authority to do this?

19 MS. FLORES: That's correct, they --

20 COMMISSIONER PFANNENSTIEL: And how much
21 is that for?

22 MS. FLORES: That was \$20,000 for one
23 year.

24 COMMISSIONER PFANNENSTIEL: I see, so
25 this is the same amount?

1 MS. FLORES: Right. We anticipate
2 \$20,000 or less per year.

3 COMMISSIONER PFANNENSTIEL: Okay.

4 MS. FLORES: For legal services.

5 COMMISSIONER PFANNENSTIEL: Thank you.
6 I move approval.

7 COMMISSIONER GEESMAN: Second.

8 ACTING CHAIRMAN ROSENFELD: All in
9 favor?

10 MR. CHAMBERLAIN: Commissioner Geesman,
11 just for the record --

12 ACTING CHAIRMAN ROSENFELD: Oh, excuse
13 me.

14 MR. CHAMBERLAIN: -- I think for
15 clarification these contracts are basically hourly
16 services contracts. And we only pay for whatever
17 it is that we order. It's not a --

18 COMMISSIONER GEESMAN: Okay.

19 MR. CHAMBERLAIN: -- sort of fixed
20 price, they get 60,000 and we get whatever we
21 need.

22 COMMISSIONER GEESMAN: Okay.

23 ACTING CHAIRMAN ROSENFELD: They bill
24 us, we pay them.

25 MS. FLORES: That's correct.

1 COMMISSIONER GEESMAN: It's not a
2 retainer.

3 ACTING CHAIRMAN ROSENFELD: Okay, all in
4 favor?

5 (Ayes.)

6 ACTING CHAIRMAN ROSENFELD: Four to
7 zero, thank you, Liz.

8 Safe, clean school buses. Indoor air
9 quality. Katz Safe School Bus Demonstration
10 Program Phase 5. Possible approval of 13
11 contracts listed below for a total of nearly \$2
12 million for the school districts to purchase new,
13 safer, low emission school buses. The school
14 districts will be required to destroy one pre-
15 April 1977 bus for every new bus received. Mike
16 Trujillo.

17 MR. TRUJILLO: Good morning. This is
18 our fifth and hopefully final phase, because I
19 think the money runs out on the Katz Safe School
20 Program.

21 We've got 13 school districts identified
22 and have passed the criteria that we'd like to
23 enter into contracts with. And with that I would
24 ask for approval of us to enter into those
25 contracts.

1 ACTING CHAIRMAN ROSENFELD: This must be
2 Mr. Boyd's.

3 COMMISSIONER BOYD: Mr. Chairman, yes.
4 I'd move approval. And I'd like to take an
5 exception with Mr. Trujillo by saying I hope it's
6 not final, because we still have a long way to go.

7 MR. TRUJILLO: When I say that, we've
8 run out of PVA funds. I wish we could --

9 COMMISSIONER BOYD: I appreciate that --

10 MR. TRUJILLO: -- find another funding
11 source.

12 COMMISSIONER BOYD: -- I just want the
13 record to show that there are still a lot of very
14 old buses running around, and it would be nice for
15 the safety and health of the kids --

16 ACTING CHAIRMAN ROSENFELD: Jim, he's
17 telling you to go out and raise some more money.

18 COMMISSIONER BOYD: Right.

19 MR. TRUJILLO: Well, it's kind of sad.
20 We are the leader in old buses in the nation, and
21 there's still about 900 of these pre-'77 buses
22 still out there. And with this program, we also
23 are replacing some 1960 buses.

24 COMMISSIONER BOYD: So, hopefully Mr.
25 Therkelsen will take the message to go seek money.

1 I move approval.

2 COMMISSIONER GEESMAN: Second.

3 ACTING CHAIRMAN ROSENFELD: All in
4 favor?

5 (Ayes.)

6 ACTING CHAIRMAN ROSENFELD: Four to
7 nothing. Thank you, sir.

8 MR. TRUJILLO: Thank you.

9 ACTING CHAIRMAN ROSENFELD: Minutes.

10 COMMISSIONER GEESMAN: I need to
11 abstain, Mr. Chairman; I was not at this meeting.

12 COMMISSIONER BOYD: Nor was I, so --

13 ACTING CHAIRMAN ROSENFELD: Hey, what do
14 we do, Mr. --

15 COMMISSIONER GEESMAN: I think you put
16 it over, don't you?

17 (Parties speaking simultaneously.)

18 MR. CHAMBERLAIN: Yes, if you only have
19 two votes, you need to put it over.

20 ACTING CHAIRMAN ROSENFELD: For the
21 record I've decided we'll put it over.

22 Commission Committee and Oversight.

23 Nobody has anything to say.

24 Chief Counsel.

25 MR. CHAMBERLAIN: Yes, Mr. Chairman.

1 I'm pleased I have two items to report to you this
2 morning. The first one is that we have a decision
3 in the Voices of the Wetlands case, at least an
4 intended decision, from the Monterey Superior
5 Court.

6 This case, as you may recall, was
7 brought by an environmental group seeking to shut
8 down the Moss Landing Power Plant until dry
9 cooling or a cooling tower system was installed.

10 They did not attack the Commission's
11 license for the project, but instead sought
12 judicial review of the NPDES permit, which, in
13 this case, was issued some time after our license
14 was issued and had become final.

15 The project, of course, has been
16 constructed and is in operation. And we became
17 involved in the case as amicus when the parties
18 were discussing whether or not that case really
19 was procedurally appropriate, given that there had
20 been no judicial review of the Energy Commission's
21 license. And that issue, of course, was important
22 to us.

23 We were not successful in getting the
24 Superior Court to throw the case out on that
25 basis, but the issue remains. The court examined

1 the case on the merits and initially determined
2 that the Regional Board's action was not proper;
3 that the best technology available had not been
4 installed or at least he could not find that it
5 had been, because of a lack of evidence on one of
6 the findings. And he remanded it to the Regional
7 Board for additional consideration.

8 We, and the California ISO participated
9 in that, to present evidence on the potential
10 impact of a shutdown of that facility on the power
11 system.

12 And this intended decision, which was
13 issued yesterday now, has determined that what the
14 Regional Board did on the remand was appropriate,
15 and therefore that the original petition is now
16 dismissed.

17 We can anticipate there is a potential,
18 at least, that this decision, if it becomes final,
19 will be appealed. And we will continue to monitor
20 it.

21 The second item that I was going to
22 simply make you aware of is that on June 9th the
23 Federal Energy Regulatory Commission issued a
24 decision in the Sound Energy Solutions case. You
25 may recall that the Commission considered, but

1 decided not, to participate in a petition for
2 rehearing in this case.

3 This has to do with an LNG terminal that
4 has been proposed in Long Beach Harbor. And the
5 issue was the extent to which FERC can assert
6 exclusive jurisdiction to license that and preempt
7 all other state and local laws.

8 FERC has clarified in this decision that
9 a number of state environmental laws should
10 continue to apply to the situation. And so there
11 has been some progress in that regard. But in
12 essence FERC continues to maintain that its
13 jurisdiction preempts the Public Utilities
14 Commission's regulation of the facility.

15 And it's a fairly extensive -- I think
16 it's about 49 pages long. If any of you would
17 like a copy of it I'd be happy to provide it to
18 you.

19 ACTING CHAIRMAN ROSENFELD: Thank you,
20 sir. I don't want a copy.

21 Legislative Director's report? Nobody
22 here? Are you the Legislative Director for the
23 morning, sir?

24 MR. THERKELSEN: I'm not the Legislative
25 Director, but I will do the Executive Director's

1 report, if you want.

2 ACTING CHAIRMAN ROSENFELD: All right,
3 we'll do that.

4 MR. THERKELSEN: We don't have anything
5 under legislation today.

6 At a previous business meeting there had
7 been a request to understand where renewable funds
8 had been moving over the recent past. And I've
9 asked Marwan to come and give you a brief
10 presentation on what the status is of the
11 renewable funds and what have been their movements
12 recently. So, Marwan.

13 COMMISSIONER BOYD: There's a legitimate
14 reason for the CRT tube here to be burning away
15 for the last hour with a chart in it. Okay. I
16 was afraid somebody left it on.

17 MR. THERKELSEN: I don't know that it's
18 burning, but -- probably have the chart well
19 memorized, then.

20 (Laughter.)

21 ACTING CHAIRMAN ROSENFELD: There were a
22 lot of distractions.

23 COMMISSIONER BOYD: I covered it with
24 paper so as not to distract me.

25 (Pause.)

1 MR. MASRI: Good morning. Just a quick
2 brief background to put this in context. The
3 renewables program was designed to have five
4 accounts that you see on the left there, on the
5 first slide, that aim to provide support for
6 different parts of the renewables market.

7 And I think briefly describe what this
8 account is like puts the re-allocation in context
9 here.

10 Existing facilities account pays
11 production incentive if it's needed for each
12 period monthly to pay on the market price
13 received, compared to a target price that we set.
14 We may or may not pay for these projects.

15 And new facilities provides production
16 incentive to encourage new center station
17 facilities come online.

18 And emerging renewables provides capital
19 cost buydown or rebate for customer-owned
20 renewable projects, mainly photovoltaics.

21 And customer education is really what it
22 says, to raise consumer awareness about renewable
23 energy and choices and options available to them.

24 And customer credit, now defunct, paid
25 consumption credit, cents per kilowatt hour, to

1 consumers who purchased green power.

2 Now what you see on the left is the
3 total money that was authorized to be collected
4 for the first four years, which is Senate Bill 90
5 in 1998 through 2001. And then five years of
6 funding under 1038, 2002 through 2005. And that's
7 the --

8 ACTING CHAIRMAN ROSENFELD: So, a total
9 of eight years.

10 MR. MASRI: Total of eight years, and
11 the annual level is \$135 million per year.
12 There's an inflation adjustment factor provided
13 for in the legislation at the lower of the load
14 growth or GDP deflator, whichever is less. In the
15 past couple years that's been about .7 or 1
16 percent per year.

17 What you see then, the next column on
18 the right is the same accounts with another one
19 added, not really an account. I'm talking about
20 that bottom called ag/bio program. And the
21 reallocation, again in the context, that was
22 really implementing legislative authority that was
23 given to the Commission to reallocate money among
24 accounts, depending on market conditions, in order
25 to optimize the effectiveness of the fund.

1 And what you see on this first slide is,
2 and they're color-coded, the amount of money
3 coming from the existing account, for example, \$49
4 million, \$34 million, and \$6 million, and where it
5 went and the arrow colors also is coded to tell
6 you where that money flowed, to which account --
7 from which account to which account.

8 As you can see, the only reallocation
9 was taken out of existing and customer credit.
10 The two reasons for that is the existing account,
11 as I said, pays really money based on whether it's
12 needed or not. And during the energy crisis, for
13 example, when projects were getting very high
14 prices, for 11 straight months we didn't pay
15 anything.

16 And so when we reallocate from existing
17 we insure first that the needs for those projects
18 is met and will be met in the future; and any
19 funds are not anticipated then reallocated to be
20 used in the program where it would be more
21 effective and is more needed.

22 So, in customer credit we discontinued
23 that at the Commission. It was really to fund
24 direct access customers. And since that was
25 closed, there was no longer need for that account.

1 And its money then went, as you can see, to the
2 emerging account and to customer education
3 account.

4 The money, the customer education
5 account in this case was really to fund the WREGIS
6 system under the RPS, since that was required but
7 not funded.

8 The difference between the total should
9 be the same in both columns except they're not.
10 And the reason for that is the two boxes in the
11 middle, gray boxes, two injections came into the
12 fund from outside the renewables fund. One is the
13 interest earnings, \$10 million; and the other one
14 is AB-29X actually allocated some general fund
15 money to the renewables account to fund municipal
16 emerging projects. Because we could not do it at
17 the time, since the money was IOU ratepayer money.
18 And the Legislature said, well, here's some
19 general fund money to do that.

20 The last box on the right, the ag/bio,
21 that's a \$6 million fund actually carved out of
22 the existing account. That's not new money. And
23 it's to provide incentives for biomass projects
24 that otherwise would have -- that utilize,
25 otherwise -- a fuel that otherwise would have been

1 burnt in open field, ag fuel.

2 And that one will be done with it by the
3 end of this month. We paid already about \$4
4 million, \$2 million encumbered and reserved. And
5 will be paid by next month.

6 So that's an overall picture, really, of
7 where we started, where we are today, and where
8 did money come from where to where. The
9 recipients of the reallocation basically have been
10 the RPS and the emerging account.

11 In the case of the new facilities
12 account, just to give you an idea of the structure
13 of the presentation here that you have with you,
14 the next slide gives you -- the next page has two
15 slides on it. One is -- the next slide to that is
16 the emerging account. One of the drivers of this
17 allocation is that the demand for emerging account
18 has been really phenomenal growth recently. Far
19 exceeded any expectation.

20 And so the moving of the money to the
21 emerging account is to keep the momentum going
22 with the industry until we ere in the Commission
23 come up with a long-term strategy that's
24 sustainable to keep that industry going.

25 And then we have a matrix in the back

1 that walks you through year-by-year what
2 allocations we did, what were the market
3 conditions and events that either we responded to,
4 or anticipated, and did an allocation to
5 accommodate.

6 And then in the middle column we tell
7 you what allocations we did. In the last column
8 some of the results we obtained by doing that
9 allocation and some of the rationale for doing it.

10 The last page of the presentation, the
11 last slide in number 6 is a very short, brief
12 snapshot of what the results of the program have
13 been so far, which includes some effects of these
14 three allocations that have been done.

15 At your pleasure I can walk you through
16 this in any detail you want. And speak for five
17 minutes or five hours, or whatever you'd like to
18 do. You don't want me to speak five hours, I'm
19 sure. It won't cut into your dinner, but it will
20 cut into your lunch.

21 ACTING CHAIRMAN ROSENFELD: Do you want
22 to do the five- or ten-minute version?

23 MR. MASRI: Yeah. We basically, if you
24 look at the emerging account growth, that's really
25 of note. On the top bar chart you see there is

1 reservations received. And there you see that
2 first three years of the program we hardly had any
3 activity at all, '98, '99 and 2000.

4 And in 2001, the beginning of the energy
5 crisis, we've seen basically in 2001 we got ten
6 times the applications we got in the previous
7 year. And that was the beginning of this
8 phenomenal growth that I'm talking about.

9 Obviously we didn't have enough money to
10 meet that demand growth, so that we got moving
11 money from where we don't think it's needed in the
12 program to meet that.

13 On the second graph you see --

14 ACTING CHAIRMAN ROSENFELD: Marwan, --

15 MR. MASRI: Pardon?

16 ACTING CHAIRMAN ROSENFELD: -- what will
17 the majority of these 4000 --

18 MR. MASRI: The majority, if you're
19 talking about technologies, photovoltaics more
20 than 90 percent.

21 ACTING CHAIRMAN ROSENFELD: Ninety
22 percent.

23 MR. MASRI: Yeah. There are four
24 technologies eligible, photovoltaics, small wind,
25 onsite generation wind, solar/thermal electric,

1 also onsite generation. We have not funded any of
2 that. And fuel cells using renewable fuel, in
3 this case digester gas, or landfill gas. We
4 funded two applications there. Most of this
5 really is photovoltaics.

6 The reservations you see up there, our
7 experience so far is that 80 percent of those will
8 actually become installed, assuming we have the
9 funding for them. So that's the success rate of
10 projects that come in versus what actually gets
11 built.

12 We have, so far, as of June of this year
13 we have spent \$149 million on emerging account for
14 9500 installations.

15 COMMISSIONER PFANNENSTIEL: Excuse me,
16 Marwan, I --

17 MR. MASRI: Yes.

18 COMMISSIONER PFANNENSTIEL: -- see that
19 you have the rebates paid cumulative. How much
20 are we paying per year? What is this -- am I --

21 MR. MASRI: That would be actually it's
22 accelerating, as you can see. It's about roughly
23 in the latest period it was about \$10 million a
24 month, is what it's been running. So it's really
25 huge.

1 It's tapering off a little bit, that
2 line, the slope is a little bit flatter towards
3 the end because we are now reducing the rebates
4 periodically. And so megawatts per dollar of
5 rebates paid is now rising.

6 COMMISSIONER PFANNENSTIEL: We're at
7 about \$10 million a month?

8 MR. MASRI: Roughly that's the rate
9 we're at right now, yeah.

10 We have inhouse 4600 active reservations
11 for about 19 megawatts that we think will use up
12 about \$60 million, once we approve them.

13 Going over to the matrix. We begin in
14 year 2000; the beginning of the energy crisis we
15 moved \$40 million from the existing account that
16 was not needed because we were making enough
17 money, and auctioned it off for a second auction
18 that netted 17 new projects totaling about 500
19 megawatts that won those awards.

20 This was the Commission's response, part
21 of what we did here, to respond to the energy
22 crisis on all aspects. And so in the renewables
23 program was how can we use the money to bring more
24 projects online quickly.

25 In the year 2001 a lot of things

1 happened during the energy crisis there. We
2 listed some of the events and occurrences that
3 really affected the market, and the market
4 conditions. And then our response to that.

5 Basically the state was looking for
6 megawatts and megawatts anywhere they can get them
7 in the scramble to find power and reduce power
8 consumption.

9 Things that happened. As we know the
10 rolling blackouts; energy awareness was
11 heightened; and during environment of uncertainty
12 was prevailing at the time. The utility rates
13 went up, and what's interesting for PVs is that
14 another higher tier was added, so that with net
15 metering the economic value of PV now is higher.
16 And therefore, it's more economically attractive.

17 And 29X added \$30 million to the
18 emerging renewables program; 15 of that were told
19 to move from the renewables program into emerging,
20 and the other came from the general fund, the
21 other part.

22 Now, in the meantime SB-530 was to
23 continue the funding for the program past 2001.
24 And it got caught up in this whole Edison rescue
25 bill, and did not pass -- and failed in 2001. So

1 we had a hiatus, no funding was coming in. And
2 that's part of the rationale why we start moving
3 money to fund the emerging account during this
4 hiatus.

5 Moving on to 2002. In October of that
6 year we stopped accepting application for emerging
7 because we ran out of money. And the new funding
8 was not in place, as I said, the bill had not
9 passed. And, so again we start looking for money
10 that we can move from the rest of the program to
11 bridge that gap until the new authorization is
12 granted.

13 In that year, 1038 passed, but we could
14 not begin to use that money until 2003. And so in
15 the meantime we moved \$10 from customer credit
16 that was not spent and \$6 from the existing fund,
17 again. And another \$13 to the emerging account to
18 fund between October and the time that we can
19 access the new money.

20 In that same year, of course, tax credit
21 was passed for emerging, and AB-58 extended net
22 metering, -- and affordable housing, 5 percent
23 rebate was put in place. So all these conditions
24 created again fed the demand for emerging that
25 we're trying to deal with here by reallocation.

1 Let's see, in 2003 then we resumed
2 because the funding now was in place, SB-1038,
3 which by the way is the same for PIER also, same
4 funding legislation. And we -- let's see, the
5 muni money, we returned it to the general fund.
6 Now, you know, budget was a problem. And so
7 general fund money was returned to the general
8 fund. And so \$6 million there was actually sent
9 back to the general fund. And we adopted a
10 declining system of rebates.

11 I should say that in 2001 when major
12 development for emerging that triggered a lot of
13 the growth, also, the Legislature, we were asked
14 to raise the rebate during the energy crisis. And
15 we said the law said should decline over time, we
16 can't raise it. So the legislation then was
17 passed, I think it was 29X that said it's now
18 4.50. We went from \$3 at the time to \$4.50 a
19 watt. A 50 percent increase in rebate. And it
20 was a major, I think, push in installers and
21 retailers, and everybody gearing up for this very
22 high, maybe too high a level, rebate.

23 Going on to this year we -- and this is
24 what happened, I think, May 19th when the subject
25 came up, in 2004 the emerging account demand

1 continues to grow. And we're still getting a lot
2 of the money being saved in the existing account
3 again, as they have fixed price contracts and
4 basically been making enough money, so we again
5 had the opportunity to keep the industry momentum
6 going by moving money from the existing account.
7 We also moved \$10 million in interest earnings on
8 the fund and \$15 million from existing.

9 The customer credit money that was
10 discontinued basically found its way, 90 percent
11 of it, to the emerging account. And, again, those
12 are really both customer side money. One, the
13 emerging said if you want to make your own
14 renewable energy, you go to the emerging. If you
15 want to buy it, you go to customer credit. So the
16 customer credit was gone, the whole money then was
17 directed to consumers through the emerging, with
18 the exception of 10 percent of the customer credit
19 money that we used to fund WREGIS.

20 We think we made a difference in the
21 renewables market in California. The last page
22 gives you some of the bottomline results we had in
23 all these accounts. And I think the highlight
24 there is that the existing projects continue to
25 operate. They have not gone offline because of

1 lack of economic viability.

2 The new account, although problems in
3 the market, prevented those projects from easily
4 obtaining power purchase agreements, we still had
5 over 60 percent of those projects did come online
6 and are producing power today. And we only, by
7 the way, assessed them for the first five years of
8 operation. Then they're on their own after that.

9 And the emerging account, you know the
10 story about that, is we -- I think Commissioner
11 Geesman at one time -- renaissance of the PV
12 industry. We may be seeing really what we've been
13 waiting for for years, that this industry finally
14 breaks through.

15 In Japan, interestingly enough, they
16 have -- have come from behind and are way ahead of
17 us on this now. And they were able to come down
18 to almost zero rebate. So we're taking a hard
19 look here as what we do from here on, rather than
20 just keep feeding the beast, so to speak.

21 Okay, this is really in summary what
22 we've done. I'd be happy to follow up with any
23 one of you, if you want to talk about this in any
24 more detail. And I'll be happy to respond to any
25 questions.

1 MR. THERKELSEN: Thank you, Marwan. I
2 don't have anything else to report, but I do
3 notice that the Public Adviser's report is next.
4 Margret had to go to another engagement and asked
5 that I simply remind you that on the 24th, next
6 Thursday, we do have the joint agency meeting, the
7 energy action plan meeting. And I do expect that
8 to go longer than the published cut-off time,
9 because we have added an enlarged segment there
10 looking at the summer reliability situation, and
11 in particular, localized reliability needs
12 throughout the state.

13 The other thing she wanted me to mention
14 was the upcoming Siting Committee workshop on
15 petroleum infrastructure that's happening on June
16 28th.

17 So that took care of the Public
18 Adviser's report.

19 ACTING CHAIRMAN ROSENFELD: I don't see
20 much public here, so I guess we don't have any
21 public comment.

22 Okay, I close this meeting.

23 (Whereupon, at 12:03 p.m., the business
24 meeting was adjourned.)

25 --o0o--

CERTIFICATE OF REPORTER

I, ALAN MEADE, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Business Meeting; that it was
thereafter transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
meeting, nor in any way interested in outcome of
said meeting.

IN WITNESS WHEREOF, I have hereunto set
my hand this 29th day of June, 2004.

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